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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,120	09/17/2003	Josef Wodeslavsky		1838

7590 12/13/2004

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EXAMINER

ESTREMSKY, SHERRY LYNN

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,120

Applicant(s)

WODESLAVSKY, JOSEF

Examiner

Sherry L Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The title of the invention covers the "inventor(s), I/we declare that:" portion of "As the below named inventor(s), I/we declare that:", removing the declaration aspect of the document.

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It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

The applicant has improperly used form PTO/SB/01A, "Declaration (37 CFR 1.63) for Utility or Design Application Using an Application Data Sheet (37 CFR 1.76)". Since the application was submitted without an application data sheet, the form PTO/SB/01, "Declaration for Utility or Design Patent Application [2 pages]", needs to be used.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because each reference character 1-3, 5-21, and 23 has been used to designate more than one element in the figures. Each reference character should be used to designate only one element throughout the entire application. For example, since the reference character 1 is used in figure 1 to refer to a flywheel, it should only be used to refer to a flywheel, even in different embodiments, and should not be used to refer to a transmission housing in figure 4.

3. The two drawings of figure 3 should not be labeled together as one figure, but should be labeled as two separate figures, such as FIG 3A and FIG 3B.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because the form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: as in the figures, each reference character should be used to refer to only one element.

Appropriate correction is required.

Claim Objections

6. Claims 1, 2, 5, 6, 8-12, 14, 15, and 17 are objected to because of the following informalities: in claims 1 and 12, "axel" (in several places) should be --axle--; in claim 2, line 2,

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it appears "to consist" should be --to house--, or --to contain--, or something similar; in claim 5, line 2, --of-- should be inserted after "consists" (note - see discussion of use of the word "consists" in reference to claim 5 in paragraph 8 below); in claim 5, line 3, it appears "those gears" should be --that gear's--; in claims 5 and 9-12, "boar" should be --bore--; claims 5, 6, 8, 14, 15, and 17 must end with a period; in claim 6, line 4, "gears" should be --gear's--; in claim 8, line 3, it appears "A selector type pins" should be --A selector type of pins-- or --Selector type pins--; in claim 9, line 4, "pin" should be --pins--; in claims 10 and 11, line 2, "that" should be deleted; in claim 12, line 9, it appears "cylinders" should be deleted; in claim 12, line 13, "dispose" should be --disposed--; and in claim 17, line 4, it appears "clutch" should be --oil pump--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in claiming that the clutch and torque converter assembly "consists" of an oil pump and the pump "consists" of ..., since when used in a patent claim, the word "consists" is considered to mean that the described item includes only that which follows the word "consists", and nothing more. This does not accurately describe the disclosed invention because the clutch

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and torque converter assembly does include more than an oil pump, for example. Additionally, since claim 1 claims that the clutch and torque converter "consists of an oil pump", the clutch and torque converter cannot properly be claimed as including anything other than an oil pump, and so claim 2 cannot claim that the torque converter assembly "further consists of". Claim 1 would therefore more accurately claim the clutch and torque converter assembly and oil pump if "consists" in lines 1 and 2 was changed to --includes-- or --comprises-- or other equivalent. See MPEP 2111.03.

In line 13 of claim 1, "connected to a car wheel for example" is indefinite because it is not clear if "connected to a car wheel" is part of the claimed invention. It cannot be determined if a sun gear would have to be connected to a car wheel to meet the limitations of the claim. The phrase "connected to a car wheel for example" should either be deleted or changed to --connected to a car wheel--.

Lines 17, 23, and 29 of claim 1 are indefinite in claiming rotation of the sun gear about its own axle, since the sun gear is not described as being capable of rotating relative to its axle in the description of the invention. The sun gear is the torque output (as stated in line 13 of the claim) and so rotates its axle rather than rotating about it. These lines would more accurately claim the disclosed invention if amended to claim simply that the sun gear is rotating (or not rotating). Alternatively, the lines could be amended to claim that the sun gear is rotating (or not rotating) about its own axis.

In line 1 of claim 2, "further consists of" is indefinite for the reasons discussed above and should be changed to --further includes--, or further comprises--, or equivalent.

Beginning in line 8, claim 2 appears to incorrectly claim elements previously claimed in claim 1. Claim 2, being dependent on claim 1, includes all of the limitations of claim 1 and "further consists of" all of the limitations set forth in claim 2. This means that claim 2 is claiming that the assembly includes an oil pump housing in addition to the housing claimed in line 5 of claim 1 ("said pump consists of:...A housing), a sun gear in addition to the sun gear claimed in line 3 of

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claim 1, a blocking means in addition to the blocking means claimed in line 7 of claim 1, etc. This does not accurately claim the disclosed invention.

In claim 2, line 16, it is not clear which of the invention's disclosed elements is being claimed by "An output shaft which has contact with said second satellite gear", since the only shaft to physically contact the second satellite gear is the shaft connecting the first and second satellite gears already claimed in the previous line, and the output shaft of the assembly does not contact the second satellite gear.

In claim 3, "the high oil pressure between the driven sun gear side and the second satellite gear" is indefinite because it lacks antecedent basis. This high oil pressure has not been previously claimed. It is not clear if this is meant to refer to oil pressure in the inlet side described in line 6 of claim 1.

In claim 3, line 2, it is not clear what is being claimed by "the driven sun gear side", since it is not clear what element's side is being claimed. The driven sun gear has not previously been claimed as defining a side of something.

Claim 4 is indefinite in claiming intermediate gears between the drive gear and the first satellite gears, since the drive gear is defined in claim 2 as second satellite gear and no intermediate gears were disclosed as being between the first and second satellite gears. It appears that "the drive gear" should be --the input gear--, and this is how the claim is interpreted for the purpose of this action.

Claim 4 is indefinite because it does not properly further limit claim 2, it rather attempts to improperly remove limitations of claim 2. Specifically, claim 2 claims in lines 18-19 that when the input gear rotates clockwise, the first satellite gear rotates counterclockwise, while claim 4 attempts to claim that the first satellite gear rotates clockwise instead.

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Claim 5 is indefinite in claiming that the second satellite gear "consists" of a cylindrical bore, since when used in a patent claim, the word "consists" is considered to mean that the described item includes only that which follows the word "consists", and nothing more. Claim 5 would therefore more accurately claim the second satellite gear if "consists" was changed to --includes-- or --comprises-- or other equivalent.

Similarly, "consists" should not be used in lines 2 and 4 of claim 6.

Claim 6 does not accurately claim the disclosed invention in claiming that the sun gear has a cylinder and bores, since claim 6 is dependent on claim 5 which claims that second satellite gear has a cylinder and bores, and the invention is not disclosed as having both a sun gear and second satellite gear with cylinders and bores. Additionally, if the bores from the root diameter of the sun gear to its cylinder are different than the "perforated" limitation claimed in line 9 of claim 2, then it is not clear what feature of the disclosed invention is being claimed by the term "perforated". If the limitation "perforated" in claim 2 is referring to the bores in the sun gear, then claim 5 does not accurately claim the disclosed invention by claiming that the second satellite gear includes bores while the sun gear includes perforations.

In claim 7, cannot be determined what element of the disclosed invention is being claimed by "at least one chain".

In claim 8, line 5, "the vehicle driver" is indefinite because it lacks antecedent basis. No vehicle has been previously, positively claimed.

In claim 10, line 2, "said boars" is indefinite because it lacks antecedent basis. Claim 10 is dependent on claim 1, which does not claim any bores, so that the bores are not adequately defined, and it is not clear what exactly is being referred to by "said boars".

In claim 10, line 3, "said perforated gear" is indefinite because it lacks antecedent basis.

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In claim 10, line 5, "said cylinder" is indefinite because it lacks antecedent basis.

In claim 11, line 2, "said boars" is indefinite because it lacks antecedent basis.

In claim 11, line 3, "said perforated gear" is indefinite because it lacks antecedent basis.

In claim 11, line 5, "said cylinder" is indefinite because it lacks antecedent basis.

In claim 12, lines 1 and 2, "that consists of" does not accurately claim the disclosed invention.

In claim 12, line 3, "an oil pump housing" incorrectly claims a second oil pump housing in addition to the one claimed in line 8 of claim 2.

In claim 12, line 3, "an oil inlet side and oil outlet side" incorrectly claims second oil inlet and outlet sides in addition to the ones claimed in line 6 of claim 1.

In claim 12, lines 4 and 5 appear to be incorrectly claiming the axle, satellite gear, and sun gear in addition to the ones already claimed in claim 1.

Claim 12 is indefinite in claiming that the satellite gear is perforated, since claim 2 claims that the sun gear is the perforated gear, and the invention was not disclosed as having both the sun gear and the satellite gear perforated.

In claim 12, line 13, it is not clear what gear is being referred to by "said perforated gear", since claim 2 claims that the sun gear is the perforated gear and line 9 of claim 12 claims that the satellite gear is the perforated gear.

Claim 13 is indefinite because both the sun gear and the satellite gear have already been claimed as being the perforated gear. Please note that even if the sun gear was not previously claimed as

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being the perforated gear, claim 13 would be improperly attempting to remove a limitation of claim 12.

In claims 14 and 15, "will be deployed" is indefinite because an apparatus can only be defined by what it includes, and not by what will happen in the future. This phrase does not describe what would infringe the claim, since for any given clutch and torque converter assembly, it is impossible to determine whether or not an electric activated means will be deployed.

In claim 16, line 2, use of the phrase "consists of" fails to accurately claim the disclosed invention.

In claim 16, line 3, "the pivot pin" is indefinite because it lacks antecedent basis. It is not clear what element of the disclosed invention is being claimed by "the pivot pin".

In claim 17, lines 4, 6, and 8, "will be installed" and "will be mounted" are indefinite for the reasons given above for "will be deployed" in claims 14 and 15.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Marsell, U. S. Patent 2,552,010.

Marsell discloses a clutch and torque converter assembly (as described generally in column 1, lines 4-14) including an oil pump, best shown in figure 2, that is rotating by a torque energy source.

The pump includes a driven gear 25, defined as a sun gear.

At least one drive gear 26 is defined as a satellite gear.

Housing 16 contains the sun and satellite gears.

An oil inlet side at inlet passage 30' and an oil outlet side at outlet passage 28 define high and low sides.

Conduit 29 provides an oil passage, and cup member 32 with shoe member 35 provides a blocking means to control oil drainage from the high to low sides (generally described from column 2, line 57 to column 3, line 9).

Satellite gear 26 is pivoted on axle 18, which is connected to move with the pump (functionally equivalent to being freeze connected to the pump).

The oil passage 29 and blocking means 32/35 control the motion and speed of the rotation of the gears relative to each other (column 3, lines 1-9).

The pump and satellite gear are driven by a torque energy source (column 1, lines 47-53), and the sun gear is the torque output connected through gears 24, 20, 19, and 22 to a vehicle wheel (column 1, lines 15-18).

The satellite gear 26 and pump rotate around the sun gear 25.

The sun gear operates in at least three different modes:

A sun gear freeze mode in which the sun gear is not rotating, the satellite gear rotates, the sun gear RPM is zero, oil pressure is equal at the high and low sides, and oil is fully drained from the high side to the low side (the characteristics of the conditions described in column 2, lines 52-54 and column 3, lines 30-34).

A sun gear full-motion mode in which the sun gear is rotating, the satellite gear is not rotating about its own axle, the sun gear RPM is equal to the pump and satellite gear axle RPM,

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the oil pressure is higher at the high side than the low side, and the oil is fully blocked from draining from the high side to the low side (column 3, lines 12-19).

A sun gear semi-motion mode in which the sun gear is rotating, the satellite gear is rotating about its axle, the sun gear RPM is lower than the pump and satellite gear axle RPM, oil pressure is higher at the high side than at the low side, and oil is semi-blocked from draining from the high side to the low side (the conditions existing before the sun gear freeze mode comes into full effect; column 3, lines 1-11).

The oil passage 29 and blocking means 32/35 controls the pressure difference between the high and low sides, so that when there is no pressure difference, the sun gear is in freeze mode, when the oil passage is fully blocked, pressure difference builds up to a maximum, resulting in the sun gear full motion mode, and when only some oil passage is allowed, only some pressure difference builds up between the high and low sides, producing the sun gear semi-motion mode.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents each disclose a clutch and torque converter assembly using planetary gearing with control of oil pressure between the high and low sides of a gear pump to control the output of the assembly:

U. S. Patent 2,330,375 (Orner) September 1943,

U. S. Patent 2,830,470 (Marsell) April 1958,

U. S. Patent 2,921,483 (Colmerauer) January 1960,

U. S. Patent 4,322,988 (Hill) April 1982,

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U. S. Patent 4,763,544 (Blakemore) August 1988,

U. S. Patent 5,078,246 (Rohs et al.) January 1992,

U. S. Patent 5,102,376 (Batt) April 1992,


U. S. Patent 5,704,459 (Antonov) January 1998.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L Estremsky whose telephone number is (703) 308-2164. The examiner can normally be reached on Tuesday and Friday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER
AU3681 12-10-04